

MINI-EXAM

Instructions

DO NOT GO BEYOND THIS PAGE UNTIL THE EXAM ACTUALLY BEGINS.

While you are waiting for the exam to begin, be sure that you have written the LAST FOUR digits of your SOCIAL SECURITY NUMBER on each bluebook, that you have read these instructions, and that you are otherwise ready to begin.

This exam will last 60 minutes. Plan on spending at least 10 MINUTES reading the question and outlining your answer. REREAD the question to be sure you haven't missed anything.

Please discuss only the kinds of issues that would be raised as a result of what you have learned through Chapter 1. Please **OMIT** from your analysis any discussion of issues that are covered beyond that point, including proximate cause, the assessment of the amount of recoverable damages, contributory fault, or any other affirmative defense.

**DOUBLE-SPACE** your answer in the blue-book(s).

If you use more than one bluebook, label each bluebook, *e.g.*, "Book 1"; "Book 2"; etc.

You are welcome to use abbreviations, but indicate what they are, *e.g.*, "Andropov (A) would sue Brezhnev (B). B would be liable to A if ... ."

Plan on spending at least 10 minutes at the end **PROOFREADING** your answers. You may not write **ANOTHER WORD** after time is called.

You may **KEEP** your copy of the exam questions if you wish.

**REMEMBER THE HONOR CODE: DO NOT IDENTIFY YOURSELF**

DOUBLE SPACE!    GOOD LUCK!

DOUBLE SPACE!

Question

On March 30, 1996, Charles Giblett, a farmer, and John Sutton were attempting to load into a horse trailer two cows owned by Eggers Meats, Inc. Approximately one month earlier, the two cows had crossed the fences separating Sutton's property and the Eggers Meats, Inc. farm located immediately northwest of Sutton's property. Sutton and Giblett had agreed to delay retrieving the cows to avoid disturbing Sutton's cattle.

On March 30, Sutton opened his corral gate and backed his trailer into the opening. He and Giblett then attached the gate to the trailer with baling wire and a hook. As the two men attempted to herd the cows into the trailer, one cow entered the trailer, but the other cow threw its weight against the gate, dislodging it from the trailer. The cow exited the corral and entered a large field owned by Kennecott Corporation. For the next hour, Sutton and Giblett, assisted by Sutton's daughter Mary and two boys, attempted to direct the errant cow back onto Sutton's property. Sutton and Mary drove in separate vehicles with emergency lights flashing, trying to locate the cow. Mary parked and exited her car in a further attempt to locate the cow. When she spotted the cow, she returned to her car.

At that moment, James Hornsby, an employee of Kennecott, was driving home on his motorcycle. He noticed Mary waving her arms at him, but considered her waving to be a greeting, not a warning. Approximately 200 feet past Mary and her car, the cow darted out onto the road. Unable to avoid the cow, Hornsby laid his motorcycle down on the road and suffered serious injuries.

You work at a law office to which James Hornsby has come seeking advice on whether or not he can recover for his injuries. Please analyze his prospects for recovery.